

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*

Debtors.¹

PROMESA
Title III

Case No. 17 BK 3283-LTS
(Jointly Administered)

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO

as representative of

PUERTO RICO ELECTRIC POWER AUTHORITY,

Debtor.

PROMESA
Title III

Case No. 17 BK 4780-LTS

**INFORMATIVE MOTION OF THE FINANCIAL OVERSIGHT AND MANAGEMENT
BOARD OF PUERTO RICO REGARDING IN LIMINE MOTION AND MOTION FOR
PROTECTIVE ORDER RELATING TO SUBPOENA DIRECTED AT ECONOMIC
ADVISOR DR. ANDREW WOLFE**

To the Honorable United States District Judge Laura Taylor Swain:

Pursuant to the *Order Further Amending Case Management Procedures* [Case No. 17-BK-3283-LTS, ECF No. 7115], and the *Order of Reference to Magistrate Judge* [Case No. 17-BK-4780-LTS, ECF No. 1252], the Financial Oversight and Management Board for Puerto Rico (the

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations.)

“Oversight Board”), in its capacity as representative of the Puerto Rico Electric Power Authority (“PREPA”) in its Title III case pursuant to Section 315(b) of the Puerto Rico Oversight, Management, and Economic Stability Act, codified at 48 U.S.C. §§ 2101–2241 (“PROMESA”), respectfully states as follows:

1. Today, the Oversight Board filed a motion (the “Wolfe Motion,” [Case No. 17-BK-4780-LTS, ECF No. 1464]) that seeks (i) an order *in limine* precluding the introduction into evidence at the hearing on the 9019 Motion of the 2017 declaration of the Oversight Board’s economic advisor, Dr. Andrew Wolfe; and (ii) a protective order precluding the deposition sought by the Official Committee of Unsecured Creditors (the “UCC”) of Dr. Wolfe.

2. For the reasons set forth below, the Oversight Board believes Judge Swain should hear this motion.

3. At the July 11, 2019 renewed pretrial conference (“July 11 Conference”), held in relation to the hearing scheduled on the 9019 motion filed by the Oversight Board, PREPA, and the Puerto Rico Fiscal Agency and Financial Advisory Authority (“AAFAF,” and all together the “Government Parties”), the Court ruled on two motions *in limine* (the “Motions in Limine”) filed by the Government Parties.

4. In ruling on the Motions *in Limine*, the Court stated that “evidence that … relates primarily to macroeconomic and energy policy … the wisdom of certain government policy choices and actions of elected officials … [is] of, at best, limited probative value to the question of reasonableness of specific measures that is at the core of this Rule 9019 motion.” [July 11 Hr’g Tr. 10:5-18.] The Court granted both Motions *in Limine*, except with respect to two witnesses proffered by UTIER relating to whether the RSA violates PREPA’s 1974 Trust

Agreement, about whom the Court instructed the parties to meet-and-confer and attempt to enter into a stipulation to resolve the issue.

5. While the Wolfe Motion would fall within the Court's *Order of Reference to Magistrate Judge* [Case No. 17-BK-4780-LTS, ECF No. 1252], the issues presented by it mirror those already presented by the Motions *in Limine*, which have been briefed, argued, and ultimately decided by Judge Swain at the July 11 Conference. Therefore, in the interests of preserving judicial resources, and the efficient use of the parties' time and resources, the Oversight Board submits that the Wolfe Motion should be retained by the Court and ruled on without oral argument.

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Dated: July 16, 2019

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